

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

LUIGI MARRUSO,

Plaintiff,

v.

ROBERT W MONSTER, et al.,

Defendants.

CASE NO. C24-1455-KKE

ORDER STRIKING MOTION FOR
DEFAULT JUDGMENT AND VACATING
ENTRY OF DEFAULT

This matter comes before the Court on Plaintiff's motion for default judgment. Dkt. No. 15. The Court previously entered default against Defendants. Dkt. No. 10. The Court now vacates that entry of default because the proof of service on Defendant Epik, Inc. is flawed. Dkt. No. 6. With respect to Defendant Epik, Inc., the proof of service states that "I personally served the summons on the individual" but Epik, Inc. is not an individual. *Id.* Under Local Rule 55(b), the Court must vacate the prior entry of default. Local Rules W.D. Wash. LCR 55(a) ("The affidavit shall specifically show that the defaulting party was served in a manner authorized by Fed. R. Civ. P. 4.").

Because the Court vacates the clerk's entry of default, Plaintiff's motion for default judgment must be denied without prejudice under Local Rule 55(b)(1). LCR 55(b)(1) ("No motion for judgment by default should be filed against any party unless the court has previously granted a motion for default against that party pursuant to LCR 55(a) or unless default otherwise has been

1 entered.”). To the extent Plaintiff cures its service defect and the Court re-enters default against
2 Defendants under Rule 55(a), Plaintiff may refile its motion for default judgment.

3 Plaintiff is further advised that the pending motion for default judgment references an
4 “attached declaration” and an “Exhibit 1” throughout. Dkt. No. 15. This document(s) was not
5 filed. Any future motion for default judgment shall include all referenced materials.

6 In conclusion, the Court ORDERS:

- 7 1. The clerk’s entry of default (Dkt. No. 10) is VACATED.
- 8 2. Plaintiff may provide a new or corrected proof of service that follows Federal Rule
9 of Civil Procedure 4(h) by March 14, 2025.
- 10 3. The Court DENIES WITHOUT PREJUDICE Plaintiff’s motion for default
11 judgment. Dkt. No. 15.
- 12 4. Plaintiff shall mail a copy of this order with a copy of the docket to each Defendant
13 at the addresses provided in the proofs of service (Dkt. Nos. 6–8).

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15 Dated this 3rd day of March, 2025.

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18 Kimberly K. Evanson
19 United States District Judge
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